In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 1449

FRANK CACCIATORE IPPOLITO, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the Middle District of Florida, petitioner was convicted of using a facility in interstate commerce with intent to carry on a business enterprise involving gambling in violation of federal and state laws (18 U.S.C. 1952). The court of appeals affirmed (Pet. App. A).

Petitioner contends that there was a lack of probable cause to support the issuance of a search warrant and that the evidence at trial was insufficient. The search warrant was supported by the affidavit of an experienced gambling investigator that he had received information that gambling was being carried on at the place to be searched, and had then himself

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observed such activities there. The evidence at trial revealed, in addition to these observations, other eyewitness accounts of gambling, gambling paraphernalia found on the premises and dropped by petitioner, an interstate communications facility, and evidence of petitioner's use of it. Petitioner's contentions, which raise no issue of general significance, are fully answered in the opinion of the court of appeals, on which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

APRIL 1971.

U. S. GOVERNMENT PRINTING OFFICE: 1971